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EXAMINER

BONZO, BRYCE P

ART UNIT	PAPER NUMBER
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2114

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/624,239

Applicant(s)

D'IPPOLITO ET AL.

Examiner

Bryce P Bonzo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL OFFICIAL ACTION

Status of the Claims

Claims 1-7, 10-17, 22-31 and 48-49 are rejected under 35 USC §102(e).

Claims 8-10, 18-21 and 32-47 are rejected under 35 USC §103.

Claim 23 is rejected under 35 USC §101.

Claim 10 is rejected under 345 USC §112.

Rejections under 35 USC §101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 23 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 23 recites a "computer readable signal comprising a code segment..." A signal is not considered statutory subject matter by the Office. As the computer readable medium has been claimed in claim 22, this claim is fatally flawed.

Rejection under 35 USC §112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites "producing signals for depicting...comprises". This limitation draws basis from a cancelled limitation formerly present in claim 9. As such this limitation lacks antecedent basis. The limitation shall be read as "producing" for expedited prosecution and maintain consistency with the parent claims.

Rejections under 35 USC §102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 10-17, 22-31 and 48-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker (United States Patent No. 5,963,911).

As per claim 1, Walker discloses:

A method of annunciating problems in a system, comprising correlating performance degradation information and service violation information associated with system problems, to produce priority information for said system problems (column 6, lines 34-35: relevant importance ... number of customers affected" (performance

degradation) and column 6, lines 55-63 "compensation is payable according to lateness" (service level agreements)); and

producing signals for concurrently indicating said system problems (column 6, lines 25-28: jobs requiring attention) and problem priority information associated with said systems problems (column 6, lines 29-36: conditions to the determine which job should take priority).

As per claim 2, Walker discloses:

wherein producing problem priority information comprises quantifying a relative importance of said system problems (column 7, lines 25-29: quantifies the problem data into common units).

As per claim 3, Walker discloses:

producing signals which represent a cost associated with at least one problem (column 6, lines 49-column 7, line 10 describe cost specifically).

As per claim 4, Walker discloses:

wherein producing signals which represent a cost, comprises determining service level agreement penalties associated with breaches of service level agreement clauses (column 6, lines 55-63: "penalty may be a real monetary cost if compensation is payable to a customer for failure to meet a time" describes a type of service level agreement, that repairs are timely).

As per claim 5, Walker discloses:

producing signals indicating performance degradation information (column 16, lines 30-31: "to an alarm generated by the fault monitoring system") and service violation information associated with a root cause of one said plurality of system problems (column 6, lines 54-58 describe service level violations; and every error has an associated root cause, and of particular note is the claim only recites that an inherent association exists, not that the system determined this association).

As per claim 6, Walker discloses:

receiving from an alarm correlator an indication of an alarm associated with a root cause of a problem (column 6, lines 13-15).

As per claim 7, Walker discloses:

wherein producing signals comprises producing signals for use by a display device for producing a display image (column 6, line 6: the video display unit).

As per claim 10, Walker discloses:

wherein producing signals for depicting performance degradation information comprises receiving signals representing system fault events (column 21, lines 37-40).

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As per claims 11, Walker discloses:

wherein producing problem priority information comprises correlating at least one of performance degradation information and service violation information to produce said problem priority information associated with said system problems (column 6, lines 44-63).

As per claim 12, Walker discloses:

receiving a plurality of alarm packets (column 6, lines 12-15).

As per claim 13, Walker discloses:

receiving a plurality of performance degradation data units for providing said performance degradation information (column 6, lines 12-15).

As per claim 14, Walker discloses:

receiving a plurality of service violation data units for providing service violation information (column 6, lines 53-64).

As per claim 15, Walker discloses:

receiving alarm data units for providing alarm information receiving performance degradation data units for providing performance degradation information and receiving service violation data units for providing service violation information (column 6, lines 12-14 and column 6, lines 53-64).

As per claim 16, Walker discloses:

associating at least one of said performance degradation information and said service violation information with one of said system problems (column 7, lines 35-59).

As per claim 17, Walker discloses:

producing signals representing a count of at least one of said alarm data units, said performance degradation data units and service violation data units related to said one of said system problems (column 7, lines 25-31).

As per claim 48, Walker discloses:

An apparatus for annunciating problems in a system, comprising:

a) a receiver for receiving current data representative of system conditions, said current data including current performance degradation and service violation information associated with system problems; and

b) a signal generator including a processor in communication with said receiver correlating said performance degradation information and said service violation information associated with system problems, to produce priority information for said system problems (column 6, lines 34-35: relevant importance ... number of customers affected" (performance degradation) and column 6, lines 55-63 "compensation is payable according to lateness" (service level agreements)); and for producing signals for concurrently indicating said system problems (column 6, lines 25-28: jobs requiring

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attention) and said problem priority information associated with said systems problems (column 6, lines 29-36: conditions to the determine which job should take priority).

As per claim 49, Walker discloses:

An apparatus for annunciating problems in a system, comprising

a) a receiver for receiving current data representative of system conditions, said current data including current performance degradation and service violation information associated with system problems; and

b) a signal generator including a processor in communication with said receiver correlating said performance degradation information and said service violation information associated with system problems, to produce priority information for said system problems (column 6, lines 34-35: relevant importance ... number of customers affected" (performance degradation) and column 6, lines 55-63 "compensation is payable according to lateness" (service level agreements)); and for producing signals for concurrently indicating said system problems (column 6, lines 25-28: jobs requiring attention) and said problem priority information associated with said systems problems (column 6, lines 29-36: conditions to the determine which job should take priority), wherein said signal generator comprises means for associating a cost with at least one system problem (column 6, lines 55-63 "compensation is payable according to lateness" (service level agreements))

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Claim 22 is the computer readable medium which carries the method of claim 1, and is rejected on the same grounds as claim 1.

Claim 23 is the computer readable signal which carries out the method of claim 1, and is rejected on the same grounds as claim 1.

Claim 24 is apparatus in means plus function form which carries out the method of claim 1, and is rejected on the same grounds as claim 1.

Claims 25-31 are apparatus which carries out the method of claim 1, and is rejected on the same grounds as claims 1-7.

Rejections under 35 USC §103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10, 18-21 and 32-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (United States Patent No 5,963,911) in view of Douik (United States Patent No. 6,012,152).

As per claim 8, Walker discloses:

performance degradation information, alarm information and service violation information (column 6 discloses numerous example of alarm, performance and service information).

Walker does not explicitly disclose:

user selection of at least one of performance degradation information, alarm information and service violation information, *for concurrent display with an associated system problem*. Douik discloses this concept at column 25, lines 19-26; column 27, lines 43-52; and, column 28, lines 26-30. Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows not only the prioritized tasks, but also user selected data in a easy to use hierarchy.

As per claim 9, Walker discloses the use of:

performance degradation information and service violation information (column 6).

Walker does not explicitly disclose the:

wherein *producing signals for depicting problem priority information* comprises *producing signals for depicting* at least one of performance degradation information and service violation information. Douik discloses this concept at column 25, lines 19-26; column 27, lines 43-52; and, column 28, lines 26-30. Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows not only the prioritized tasks, but also user selected data in a easy to use hierarchy.

As per claim 18, Walker discloses:

system problem hierarchy (column 6 discloses a complete ranking system for problems) including at least one system problem and at least one of performance degradation information, alarm information and service violation information associated with a selected one of said problem objects (column 6, discloses many criteria for ranking the problems including these).

Walker does not explicitly disclose:

producing signals comprises producing signal for displaying a system problem hierarchy including at least one system problem and at least one of performance degradation information, alarm information and service violation information associated with a selected one of said problem objects. Douik discloses this concept at column 34, lines 25-28; column 35, lines 40-60; column 38, lines 1-6; column 35, lines 19-23). Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows not only the prioritized tasks, but also user selected data in a easy to use hierarchy.

As per claim 19, Walker does not explicitly disclose:

further comprising transmitting said signals to a display device for use in producing a visual display. Douik discloses this concept at column 25, lines 19-26; column 27, lines 43-52; and, column 28, lines 26-30. Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see

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Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows not only the prioritized tasks, but also user selected data in an easy to use hierarchy.

As per claim 20, Walker does not explicitly disclose:

further comprising producing a display image in response to said signals. Douik discloses this concept at column 25, lines 19-26; column 27, lines 43-52; and, column 28, lines 26-30. Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows not only the prioritized tasks, but also user selected data in an easy to use hierarchy.

As per claim 21, Walker discloses:

A method of annunciating problems in a system comprising:
correlating performance degradation and service information associated with system problems to produce problem priority information for said system problems;
and concurrently indicating said system problems and said problem priority information associated with said system problems.

Walker does not explicitly disclose:

displaying a system problem with priority information. Douik discloses this concept at column 34, lines 25-28; column 35, lines 40-60; column 38, lines 1-6; column 35, lines 19-23). Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows the prioritized tasks.

Claims 32-44 are the apparatus which carries out the method of claim 1, and are rejected on the same grounds as claims 8-20.

As per claim 45, Walker discloses:

a) a receiver for receiving data representative of system conditions (as shown in claim 1);

b) a signal generator for producing signals for concurrently indicating a plurality of system problems and problem priority information associated with said system problems, response to said data (as shown in claim 1).

Walker does not disclose:

c) a display device for producing a visual image in response to said signals.

Douik discloses this concept at column 25, lines 19-26; column 27, lines 43-52; and, column 28, lines 26-30. Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows not only the prioritized tasks, but also user selected data in a easy to use hierarchy.

As per claim 46, Walker discloses:

A method comprising of annunciating problems in a system, comprising correlating current performance degradation information and service violation information associated with system problems, to produce problem priority information for said system problems signals for concurrently indicating a plurality of system problems (column 6, lines 34-35: relevant importance ... number of customers affected" (performance degradation) and column 6, lines 55-63 "compensation is payable according to lateness" (service level agreements)); and

and producing signals for concurrently indicating said system problems and said (column 6, lines 25-28: jobs requiring attention) and said problem priority information associated with said systems problems (column 6, lines 29-36: conditions to the determine which job should take priority).

Walker does not explicitly disclose:

displaying a system problem with priority information. Douik discloses this concept at column 34, lines 25-28; column 35, lines 40-60; column 38, lines 1-6; column 35, lines 19-23). Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of

Walker and therefore create a more user friendly system which shows the prioritized tasks.

As per claim 47, Walker discloses:

A method comprising of annunciating problems in a system, comprising correlating current performance degradation information and service violation information associated with system problems, to produce problem priority information for said system problems signals for concurrently indicating a plurality of system problems (column 6, lines 34-35: relevant importance ... number of customers affected" (performance degradation) and column 6, lines 55-63 "compensation is payable according to lateness" (service level agreements)); and

and producing signals for concurrently indicating said system problems and said (column 6, lines 25-28: jobs requiring attention) and said problem priority information associated with said systems problems (column 6, lines 29-36: conditions to the determine which job should take priority) and producing signals which represent a cost associated with at least one problem (column column 6, lines 53-67).

Walker does not explicitly disclose:

displaying a system problem with priority information. Douik discloses this concept at column 34, lines 25-28; column 35, lines 40-60; column 38, lines 1-6; column 35, lines 19-23). Walker provides for a display and describes a system for notifying technicians for a task. The display is the only notification system in the scheduling of Walker. One of ordinary skill can clearly see Walker's intimation for the need for display

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mechanism of some sort. Douik provides a fully functional display apparatus intended for displaying large amounts of QoS, alarm and technical data to a user. Thus it would have been obvious to one of ordinary skill in the art at the time of invention to incorporate the enhanced display mechanism for Douik into the scheduling system of Walker and therefore create a more user friendly system which shows the prioritized tasks.

Response to Arguments

Applicant has amended all claims and provided arguments supporting these claims.

First, Applicant has argues Walker fails to teach "correlation". Column 6, lines 34-35 "relevant importance ... number of customers affected (performance degradation) and column 6, lines 55-63 "compensation is payable according to lateness" (SLA). These two signals are combined that is correlated to generate a signal indicating problem priority.

Second, Applicant argues Walker fails to teach "concurrently". Column 15, lines 4-53; column 21, lines 47-66 disclose the concurrent use of the priorities to rank plural jobs. The claim as written requires the "producing" of "signals" not their use or function within the system. The scheduling process as claimed meets this requirement as it must prioritize the repairs prior to dispatching service technicians.

Third, Applicant argues Walker fails to disclose "A method for annunciating." Column 16, line 28 clearly describes the reporting of priority data to repair personnel. Claim 1 does not claim concurrently annunciating priority and system problems, it requires the concurrent indication of problems and priority information. the Providing of the problem data and priority information to the processor for matrix analysis meets this indicating concurrently requirement.

Fourth, Applicant argues Walker fails to disclose the same type of correlation (page 13, ¶2). The Examiner is not required use the same type of correlation as Applicant chain of arguments, as correlation is left undefined in the claims allowing any interpretation correlation to be used.

Fifth, Applicant argues Douik does not concurrently display between to jobs (page 17). Douik does shows displaying information about a problem via a GUI, while Walker discloses the use of the precise data claimed by Applicant. Applicant is arguing that Douik alone does not teach both portions of the claim, when the rejection requires but pieces of art to be used in combination. Applicant has argued against the references individually.

Sixth, Applicant argues that Walker does not show at least one of" in claim 9. Walker has shown the use of each of these signals in determining the priority. Douik discloses the full featured display making use of these same pieces of information.

Seventh, Applicant state Walker lacks displaying of signals, specifically priority and problem signals. Claim 45 specifically recites "a display device for producing a visual image in response to said signals". This very different to displaying the signals or the information stored therein. Walker clearly alerts a technician to service appointments in response tot the priority data, and as such meets the claimed limitations.

Final Disposition

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryce P Bonzo whose telephone number is (571)272-3655. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryce P Bonzo
Primary Examiner
Art Unit 2114